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April 15, 2015

VIA ECF AND E-MAIL

The Honorable Shelley C. Chapman
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: *In re Lehman Brothers Holdings Inc.*
Case No. 08-13555 (SCC)
Claim No. 67707 Filed By Spanish Broadcasting System, Inc.

Dear Judge Chapman:

We represent Spanish Broadcasting System, Inc. ("Spanish Broadcasting") with respect to the claim litigation dispute (the "Claim Litigation Dispute") between Spanish Broadcasting and Lehman Brothers Holdings Inc. and its affiliates ("Lehman") concerning Spanish Broadcasting's proof of claim number 67707. Yesterday, Lehman filed a letter (the "April 14 Letter") [Dkt No. 49241] with the Court, ostensibly requesting a conference to report on the status of discovery in the Claim Litigation Dispute. We write to address several misstatements and inaccuracies contained in the April 14 Letter. In addition, while Spanish Broadcasting does not object to a status conference, Spanish Broadcasting believes that a conference is premature because the parties have yet to meet and confer to refine problematic and unduly burdensome search terms. Accordingly, Spanish Broadcasting respectfully submits that the discovery deadlines should be adjourned for an appropriate time (*i.e.*, 30 days) to accommodate a meet and confer, which is required prior to any request for a conference.

Contrary to the statements in the April 14 Letter, Spanish Broadcasting has at all times been diligent in performing its discovery obligations. Spanish Broadcasting provided Lehman with a proposed list of search terms on January 20, 2015. On February 3, 2015, Lehman rejected Spanish Broadcasting's proposal and provided Spanish Broadcasting with its own list of proposed search terms. During a meet and confer on February 25, 2015, Lehman informed Spanish Broadcasting that it would send a revised list of proposed search terms, which Lehman provided in a letter of March 3, 2015 (six weeks after Spanish Broadcasting sent its proposed list to Lehman). On March 5, 2015, Spanish Broadcasting agreed to run all of the terms that Lehman proposed in its March 3 letter. Spanish Broadcasting promptly retained an outside vendor to conduct searches for electronically stored information ("ESI") based on the parties' agreed upon search terms.

: Chicago	: Los Angeles	: Shanghai
: Frankfurt	: New York	: Washington, DC
: London	: Palo Alto	: West Palm Beach

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By letter dated April 3, 2015, Spanish Broadcasting advised Lehman that numerous search terms had proven to be overly broad and had retrieved an unduly burdensome volume of documents (the “Overly Broad Terms”). A copy of the April 3 letter is attached hereto as Exhibit A. Spanish Broadcasting offered to work with Lehman to narrow the Overly Broad Terms so that Spanish Broadcasting’s search for ESI was not unduly burdensome. Rather than take up Spanish Broadcasting’s offer to discuss narrowing the Overly Broad terms or a reasonable extension of the deadlines in the Second Amended Claims Litigation Schedule (the “Claims Litigation Schedule”) [Dkt No 48418], on April 8, 2015, Lehman sent Spanish Broadcasting a letter stating that it would not consent to any extension of the deadlines in the Claims Litigation Schedule. Lehman also refused to discuss the Overly Broad Terms. A copy of the April 8 letter is attached hereto as Exhibit B.

On April 10, 2015, Spanish Broadcasting sent Lehman a further letter (a copy of which is attached hereto as Exhibit C), providing updated information concerning the vendor’s search of ESI and responding to Lehman’s April 8 letter. More specifically, Spanish Broadcasting advised Lehman that the searches of Spanish Broadcasting’s e-mail server and shared drive retrieved an unduly burdensome total of more than 650,000 documents. Spanish Broadcasting *explicitly reiterated* its request for a meet and confer in an effort to (a) refine the Overly Broad Terms; and (b) reach agreement on an appropriate extension of the deadlines in the Claims Litigation Schedule. Spanish Broadcasting had repeatedly and consistently stated in all of its correspondence with Lehman regarding document discovery that it reserved the right to remove or modify unduly burdensome search terms.¹ Rather than respond to Spanish Broadcasting’s pointed request for a meet and confer to discuss narrowing the Overly Broad Terms, Lehman instead chose to file the April 14 Letter with the Court.

Given Lehman’s intransigence in refusing to meet and confer prior to filing the April 14 Letter, it appears that Lehman’s request for a conference violates the letter and spirit of Your Honor’s Chambers’ Rules and Local Rule 7007-1(a).

In the April 14 Letter, Lehman indicated for the very first time that it was willing to meet and confer with Spanish Broadcasting to discuss the Overly Broad Terms and an appropriate extension of the discovery deadlines. Since the parties have yet to meet and confer regarding those issues, Spanish Broadcasting believes that a status conference is premature and would unnecessarily burden the Court. Accordingly, Spanish Broadcasting respectfully submits that the discovery deadlines in the Claims Litigation Schedule should be adjourned for an appropriate time (*i.e.*, 30 days) to accommodate a meet and confer between the parties.

¹ In the April 10, 2015 letter, Spanish Broadcasting stated that failing an agreement by the parties to refine the search terms, cost shifting is warranted in this matter.

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We are available at the Court's convenience to address any questions.

Respectfully,



Madlyn Gleich Primoff

cc: Ralph Miller, Esq. (via ECF and e-mail)
Jacqueline Marcus, Esq. (via ECF and e-mail)
Denise Alvarez, Esq. (via ECF and e-mail)
Alexander Woolverton, Esq. (via ECF and e-mail)
Joseph Otchin, Esq.